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10/840,110	05/05/2004	Martin Weel	1116-065	7277
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WITHROW & TERRANOVA, P.L.L.C.			DUONG, OANH L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/840,110	WEEL, MARTIN
Examiner Oanh Duong	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 May 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-60 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-60 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 1-60 are presented for examination.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 55-56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claims 55-56 are not limited to tangible embodiments. The claim recited "A data structure..." is nonstatutory since the claims are directed to data structure *per se*, instead of being defined as including tangible embodiments (i.e., a computer readable storage medium such as memory device, storage medium, etc.). As such, the claim is not limited to statutory subject matter and is therefore nonstatutory.

### ***Claim Objections***

5. Claims 55-60 are objected to because of the following informalities: Claims 55-60 are hybrid claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7, 9-15, 17-33, 38-41, and 43-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward, US 6,526,411 B1.

Regarding claim 1, Ward teaches a system for sharing playlists, the system comprising a dedicated media player (i.e., dynamic Playlist Content Player System 110,) that is configured to receive a playlist from a centralized server (i.e., content provider 120) running on the Internet (i.e., communication link 40) and to display the playlist (Figs 2 and 5, col. 7 lines 40-col. 8 lines 52).

Regarding claim 2, Ward teaches a system for sharing playlists (Fig. 2), the system comprising:

a network (Communication link 40, Fig. 2);  
a player device comprising at least one of a media player and a remote control for a media player (Dynamic Playlist Content Player System, Fig. 2);  
a server storing the playlists of users (i.e., content provider system 120, Fig. 2); wherein the player device is in communication with the network and the player device is configured to receive a playlist, store the playlist, display the playlist, and play a selection from the playlist (col. 7 line 49-col. 8 line 52); and wherein the player device is not a general purpose computer (col. 6 lines 47-51).

Regarding claim 3, Ward teaches the system as recited in claim 2, wherein the network comprises the Internet (col. 7 line 62-66).

Regarding claim 4, Ward teaches the system as recited in claim 2, wherein the player device is at least one of a music player, a video player, a remote control for a music player and a remote control for a video player (col. 5 lines 47-51).

Regarding claim 5, Ward teaches the system as recited in claim 2, wherein the player device is at least partially defined by at least one item selected from the group consisting of: an MP3 player; a cellular telephone; a set top box; a stereo; a television; a car stereo, a video monitor; and a video storage player device (col. 6 lines 47-50).

Regarding claim 6, Ward teaches the system as recited in claim 2, wherein the player device is a portable player device that is configured to receive streaming audio (col. 7 lines 62-66).

Regarding claim 7, Ward teaches the system as recited in claim 2, wherein the player device comprises a network adapter (col. 7 lines 62-66).

Regarding claim 9, Ward teaches the system as recited in claim 2, wherein the player device comprises an LCD display for displaying the playlist (col. 8 lines 51-52).

Regarding claim 10, Ward teaches the system as recited in claim 2, wherein the player device is configured to facilitate searching for playlists (col. 2 lines 4-18).

Regarding claim 11, Ward teaches the system as recited in claim 2, further comprising a server upon which a plurality of playlists are stored and the player device is configured to receive playlists from the server (col. 4 lines 40-58).

Regarding claim 12, Ward teaches the system as recited in claim 2, further comprising a plurality of other player devices upon which a plurality of playlists are stored and the music player is configured to receive playlists from the other player devices (col. 10 lines 63-67).

Regarding claim 13, Ward teaches the system as recited in claim 2, wherein the player device is configured to store a plurality of different playlists (col. 4 lines 53-56).

Regarding claim 14, Ward teaches a player device comprising at least one of a dedicated media player and a remote control for a dedicated media player, the player device further comprising a receiving circuit for receiving a playlist and a display for

displaying the playlist (col. 8 lines 41-52).

Regarding claim 15, Ward teaches the player device as recited in claim 14, wherein the receiving circuit comprises a network adapter (col. 7 lines 62-64).

Regarding claim 17, Ward teaches the player device as recited in claim 14, wherein the display comprises an LCD display (col. 8 lines 50-52).

Regarding claim 18, Ward teaches a server comprising a plurality of playlists, the server being configured to communicate a selected playlist to a player device that is not a general-purpose computer (col. 6 lines 47-50).

Regarding claim 19, Ward teaches a method for sharing playlists, the method comprising communicating a playlist to a player device comprising at least one of a dedicated media player and a remote control for the dedicated media player.

Regarding claim 20, Ward teaches a method for sharing playlists, the method comprising communicating a playlist to a player device that is not a general-purpose computer (col. 7 lines 62-9).

Regarding claim 21, Ward teaches the method as recited in claim 20, wherein the player device is at least one of a dedicated media player and a remote control for a

dedicated media player (col. 5 lines 47-52).

Regarding claim 22, Ward teaches the method as recited in claim 20, wherein the player device is at least one of a music player, a video player, a remote control for a music player and a remote control for a video player (col. 5 lines 47-52).

Regarding claim 23, Ward teaches the method as recited in claim 20, wherein the player device is defined by at least one item selected from group consisting of: an MP3 player; a cellular telephone; a set top box; a stereo; a television; a car stereo; a video monitor; and a video storage player device (col. 6 lines 47-50).

Regarding claim 24, Ward teaches the method as recited in claim 20, wherein the playlist is communicated from a server (col. 5 lines 55-56).

Regarding claim 25, Ward teaches the method as recited in claim 20, wherein the playlist is communicated from another player device (col. 10 lines 63-67).

Regarding claim 26, Ward teaches the method as recited in claim 20, further comprising defining a user profile for a recipient of the playlist and matching the user profile to a user profile of another person, wherein the communicated playlist is the playlist of the other person (col. 9 lines 8-23).

Regarding claim 27, Ward teaches the method as recited in claim 20, further comprising defining a user profile for a recipient of the playlist and matching the user profile to a user profile of another person, wherein the communicated playlist is the playlist of the other person (col. 9 lines 8-23) and wherein the profile includes at least one item selected from the group consisting of: type of music listened to; at least one artist; at least one selection; at least one instrument; at least one record company; a region; a country; a state; a city; an age; a school; and an ethnicity (col. 2 lines 26-53).

Regarding claim 28, Ward teaches a method of defining a playlist, the method comprising defining a user profile, the user profile being used to determine selections that may be enjoyed by a user (col. 2 lines 26-53).

Regarding claim 29, Ward teaches the method as recited in claim 28, wherein the user profile is compared to user profiles of others to determine a match, a playlist of another for which a match is determined being used to define the playlist for the user (col. 9 lines 8-24).

Regarding claim 30, Ward teaches the method as recited in claim 28, wherein the user profile is used to define a statistical aggregate of other users and the playlist is determined by the statistical aggregate (col. 3 lines 21-30).

Regarding claim 31, Ward teaches the method as recited in claim 28, wherein the user profile comprises a list of selections enjoyed by the user and a frequency of which these selections are played (col. 3 lines 31-42).

Regarding claim 32, Ward teaches the method as recited in claim 28, wherein the user profile comprises a list of selections enjoyed by the user and a rating of the selections by the user (col. 4 lines 25-29).

Regarding claim 33, Ward teaches the method as recited in claim 28, wherein the user profile comprises at least one item selected from the group consisting of: type of music listened to; a user's age; at least one artist; at least one selection; at least one instrument; at least one record company; a region; a country; a state; a city; a school; and an ethnicity (col. 2 lines 26-53).

Regarding claim 38, Ward teaches the method as recited in claim 28, further comprising updating the playlist by adding selections that have been added to the playlist of another (col. 1 lines 49-53).

Regarding claim 39, Ward teaches the method as recited in claim 28, further comprising editing the playlist to add or remove selections therefrom (col. 1 lines 49-53).

Regarding claim 40, Ward teaches the method as recited in claim 28, further comprising automatically adding selections to the playlist that are played in excess of a predetermined rate by the player (col. 2 lines 46-53).

Regarding claim 41, Ward teaches the method as recited in claim 28, further comprising automatically removing selections from the playlist that are played less than a predetermined rate by the player (col. 4 lines 25-39).

Regarding claims 43-44, Ward teaches the method as recited in claim 28, further comprising removing selections from the playlist that are not compatible with the player (col. 4 lines 25-39).

Regarding claim 45, Ward teaches the method as recited in claim 28, further comprising designating at least one selection on a playlist as preferred to indicate that this selection is particularly enjoyable for the user (col. 8 lines 20-40).

Regarding claim 46, Ward teaches the method as recited in claim 28, wherein the playlist comprises a plurality of audio selections (col. 5 lines 47-49).

Regarding claim 47, Ward teaches the method as recited in claim 28, wherein the playlist comprises a plurality of video selections (col. 5 lines 47-49).

Regarding claims 48-49, Ward teaches the method as recited in claim 28, wherein the playlist comprises a plurality of game selections (col. 5 lines 57-58).

Regarding claim 50, Ward teaches a method for managing media content on a network, the method comprising using information about a user's previous playing to define a playlist and communicating the playlist to a player device other than a general purpose computer with which the playlist can be stored, displayed, and selections made for playing therefrom (Figs 2 and 5, col. 2 lines 19-25 and col. 7 lines 40-col. 8 lines 52)

Regarding claim 51, Ward teaches a method for defining a playlist, the method comprising finding at least one other person with similar tastes (col. 2 lines 19-25 and col. 9 lines 8-23) and communicating a list of selections played by the other user to a player device other than a general purpose computer (col. 8 lines 20-40).

Regarding claim 52, Ward teaches the method as recited in claim 51, further comprising updating the playlist by communicating an updated list of selections played by the other person to the player device (col. 4 lines 40-58).

Regarding claim 53, Ward teaches a method for defining a playlist for a user, the method comprising finding at least one other person with similar tastes by matching a profile of the user to a profile of the other person (col. 4 lines 25-29 and col. 9 lines 8-

23).

Regarding claim 54, Ward teaches the method as recited in claim 53, further comprising updating the playlist by communicating an updated list of selections played by the other person to a player device of the user (col. 4 lines 40-58).

Regarding claim 55, Ward teaches a data structure comprising a playlist defined by a method comprising communicating the playlist to a player device that is not a general-purpose computer (col. 6 lines 26-51 and col. 8 lines 20-40).

Regarding claim 56, Ward teaches a data structure comprising a playlist defined by a method comprising defining a user profile and using the user profile to determine selections that may be enjoyed by a user (col. 2 lines 4-25).

Regarding claim 57, Ward teaches a computer readable media having stored thereon a data structure comprising a playlist defined by a method comprising communicating the playlist to a player device that is not a general purpose computer (col. 6 lines 26-51 and col. 8 lines 20-40).

Regarding claim 58, Ward teaches a computer readable media having stored thereon a data structure comprising a playlist defined by a method comprising defining a user profile and using the user profile to determine selections that may be enjoyed by a

user (col. 2 lines 4-25).

Regarding claim 59, Ward teaches a computer readable media having stored thereon a method for defining a playlist, wherein the method comprises communicating the playlist to a player device that is not a general purpose computer (col. 6 lines 26-51 and col. 8 lines 20-40).

Regarding claim 60, Ward teaches a computer readable media having stored thereon a method for defining a playlist, wherein the method comprises defining a user profile and using the user profile to determine selections that may be enjoyed by a user (col. 2 lines 4-25).

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, in view Janik, US 2005/0113946 A9.

Regarding claim 8, Ward teaches the system as recited in claim 2.

Ward does not explicitly teach the player device comprises a wireless network adapter.

Janik teaches the player device comprises a wireless network adapter (page 7 paragraph [0106]). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate a wireless network adapter as taught by Janik into Ward's player device in order to add advantage of being portable.

Regarding claim 16, this claim recites limitation that is similar to claim 8, same rationale of rejection is applicable.

10. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, in view of Logan, US 2004/0255340 A1.

Regarding claim 34, Ward teaches the method as recited in claim 28. Ward does not teach defining a period of time and using the period of time to determine which selections were popular then, the playlist comprising at least some of these selections.

Logan, in the same field of endeavor, teaches defining a period of time and using the period of time to determine which selections were popular then, the playlist comprising at least some of these selections (pages 8-9 paragraph [0107]-[0109]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Ward to define a period of time and use the period of time to determine which selections were popular then, the playlist

comprising at least some of these selections as taught by Logan. One would be motivated to do so to provide user with a playlist that the user likes to play most often.

Regarding claims, those claims recite limitation that is similar to claim 34, same rationale of rejection is applicable.

11. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, in view of Schrock et al. ("Schrock"), US 2005/0060264 A1.

Regarding claim 42, Ward teaches the method as recited in claim 28.

Ward does not explicitly teach designating at least one selection on a playlist as private, wherein any selections of the playlist that are designated as private are not shared with others.

Schrock system and method for creating and playing playlist (abstract). Schrock teaches designating at least one selection on a playlist as private, wherein any selections of the playlist that are designated as private are not shared with others (page 1 paragraph [0004]). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Ward to designate at least one selection on a playlist as private, wherein any selections of the playlist that are designated as private are not shared with others as taught by Schrock. Because it was conventionally employed in the art allow users to create personal playlists of their favorite songs (Schrock, page 1 paragraph [0004]).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
O. Duong  
Primary Examiner  
September 16, 2007